

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ENRIQUE DIAZ, K70268,)	
)	
Petitioner(s),)	No. C 14-2115 CRB (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
D. ASUNCION, et al.,)	(Dkt. #3)
)	
Respondent(s).)	
_____)	

Petitioner, a prisoner at Salinas Valley State Prison (SVSP), has filed a pro se petition for a writ of habeas corpus “challenging prison conditions.” Pet. at 2. Among other things, petitioner alleges that he is being denied meaning access to the courts because his administrative appeals are not being properly processed. Petitioner also seeks leave to proceed in forma pauperis under 28 U.S.C. § 1915.

Based solely on his affidavit of poverty, petitioner’s request to proceed in forma pauperis (dkt. #3) is GRANTED. But the petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983.

It is well established in the Ninth Circuit that habeas jurisdiction is absent, and a § 1983 action proper, where, as here, a successful challenge to a prison condition or event will not necessarily shorten the prisoner’s sentence. Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003). In addition, the preferred practice

1 in this circuit has been that challenges to conditions of confinement be brought in
2 a civil rights complaint. See Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991)
3 (civil rights action is proper method of challenging conditions of confinement);
4 Crawford v. Bell, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming
5 dismissal of habeas petition on basis that challenges to terms and conditions of
6 confinement must be brought in civil rights complaint).

7 The clerk shall send petitioner a prisoner civil rights complaint form, enter
8 judgment in accordance with this order, terminate all pending motions as moot,
9 and close the file.

10 SO ORDERED.

11 DATED: June 5, 2014


12 CHARLES R. BREYER
13 United States District Judge
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